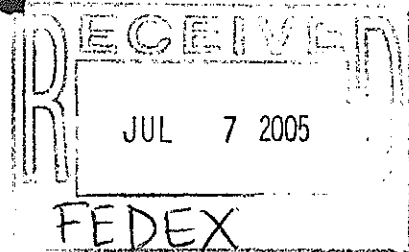


EXHIBIT 3

COUDERT BROTHERS LLP
William M. Walker (State Bar No.)
333 South Hope Street, 23rd Floor
Los Angeles, California 90071
Telephone: 213-229-2900
Facsimile: 213-229-2999



Defendant *Pro Se*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
Case No. 04-435849 Document 33-5 Filed 07/27/2007 Page 2 of 20

IN AND FOR THE COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

SENORX, INC.,

Plaintiff,

v.

COUDERT BROTHERS LLP, and
DOES 1-500,

Defendants.

Case No. CGC 04-435849

**DEFENDANT COUDERT BROTHERS
LLP'S RESPONSES TO PLAINTIFF
SENORX, INC'S FIRST SET OF SPECIAL
INTERROGATORIES**

Complaint Filed: October 27, 2004

PROPOUNDING PARTY: Plaintiff, SENORX, INC.

RESPONDING PARTY: Defendant COUDERT BROTHERS LLP

SET NO.: ONE

Pursuant to Section 2030 of the California Code of Civil Procedure, defendant Coudert Brothers LLP ("Coudert" or "Responding Party") hereby responds and objects as follows to the first set of Special Interrogatories propounded by plaintiff SenoRx, Inc. ("SenoRx" or "Demanding Party").

PRELIMINARY STATEMENT

These responses are made solely for the purpose of this action and are subject to all objections as to competence, relevance, materiality, propriety, and admissibility and any and all

1 4. Coudert objects to each and every Interrogatory on the ground that it prematurely
2 seeks Coudert's contentions and on the ground that these contentions are sought in a fashion that is
3 unduly burdensome, confusing and oppressive. These responses have been prepared early in the
4 litigation. Any responses given are necessarily preliminary and subject to revision. These
5 responses have been prepared in good faith, based on Coudert's preliminary investigation.

6 5. Coudert objects to each and every Interrogatory to the extent it is vague, and/or
7 ambiguous and/or unintelligible.

Case 3:07-cv-01075-SC Document 33-5 Filed 07/27/2007 Page 3 of 20

8 6. Coudert objects to each and every Interrogatory to the extent it prematurely seeks
9 discovery of expert opinions or work product.

10 7. Coudert objects to each and every Interrogatory to the extent that it calls for
11 information protected by the attorney client privilege, the attorney work product doctrine, or any
12 other privilege recognized by statute or case law.

13 8. Coudert objects to each and every Interrogatory to the extent it purports to call for
14 personal information, confidential information, information protected by the right of privacy,
15 including but not limited to tax records and other government filings, confidential business
16 information, commercially sensitive information, and the disclosure of trade secrets.

17 9. Coudert objects that it has not yet completed its discovery and investigation in this
18 action. These responses are given without prejudice to Coudert's right to produce evidence of any
19 subsequently discovered facts or to add, modify, or otherwise change or amend the responses. The
20 information set forth herein is subject to correction for errors, mistakes or unintended omissions.

21 INTERROGATORIES AND RESPONSES

22 SPECIAL INTERROGATORY NO. 1:

23 Identify all persons at Coudert who performed any work for SenoRx on the matter which
24 lead to the issuance of United States Patent No. 6,725,083. Identify means provide the name, last
25 known address and telephone number of each such person.

26 RESPONSE TO SPECIAL INTERROGATORY NO. 1:

27 The general objections above are incorporated by reference as though fully set forth herein.
28 Subject to and without waiving its general objections, Coudert specifically objects to this

interrogatory as overbroad, unduly burdensome, and seeking information that is neither relevant nor reasonably calculated to lead to admissible evidence. Coudert further objects to this interrogatory as excessive under Code of Civil Procedure Section 94(a). Without waiving and subject to the foregoing objections, Coudert states that the following is a list of former employees of Coudert who performed work on the matter which lead to the issuance of United States Patent No. 6,725,083 and their last known addresses:

Case 3:07-cv-01075-SC Document 33-5 Filed 07/27/2007 Page 4 of 20

Ruth Der
395 Euclid Avenue, Apt. 203
San Francisco, CA 94118

Tara Faenza
95 McCoppin Street, Apt. 210
San Francisco, CA 94103

Jordan L. Wilson
3701 Sacramento Street, Apt. 415
San Francisco, CA 94118

Lorraine O. Carcamo
243-B Fourth Avenue
San Francisco, CA 94118

SPECIAL INTERROGATORY NO. 2:

Identify all persons at Coudert who performed any work for SenoRx on the matter which lead to the issuance of United States Patent No. 6,540,695. Identify means provide the name, last known address and telephone number of each such person.

RESPONSE TO SPECIAL INTERROGATORY NO. 2:

The general objections above are incorporated by reference as though fully set forth herein. Subject to and without waiving its general objections, Coudert specifically objects to this interrogatory as overbroad, unduly burdensome, and seeking information that is neither relevant nor reasonably calculated to lead to admissible evidence. Coudert further objects to this interrogatory as excessive under Code of Civil Procedure Section 94(a). Without waiving and subject to the foregoing objections, Coudert states that the following is a list of former employees of Coudert who performed work on the matter which lead to the issuance of United States Patent

No. 6,540,695 and their last known addresses:

James A. Fox
3708 Carlson Circle
Palo Alto, CA 94306

Jordan L. Wilson
3701 Sacramento Street, Apt. 415
San Francisco, CA 94118

Lorraine O. Carcamo
243-B Fourth Avenue
San Francisco, CA 94118

SPECIAL INTERROGATORY NO. 3:

Identify all persons at Coudert who performed any work for SenoRx on the matter which lead to the issuance of United States Patent No. 6,607,528. Identify means provide the name, last known address and telephone number of each such person.

RESPONSE TO SPECIAL INTERROGATORY NO. 3:

The general objections above are incorporated by reference as though fully set forth herein. Subject to and without waiving its general objections, Coudert specifically objects to this interrogatory as overbroad, unduly burdensome, and seeking information that is neither relevant nor reasonably calculated to lead to admissible evidence. Coudert further objects to this interrogatory as excessive under Code of Civil Procedure Section 94(a). Without waiving and subject to the foregoing objections, Coudert states that the following is a list of former employees of Coudert who performed work on the matter which lead to the issuance of United States Patent No. 6,607,528 and their last known addresses:

Ed Lynch
2990 Clay Street, Apt. 3
San Francisco, CA 94115

James A. Fox
3708 Carlson Circle
Palo Alto, CA 94306

Jordan L. Wilson
3701 Sacramento Street, Apt. 415
San Francisco, CA 94118

Lorraine O. Carcamo
243-B Fourth Avenue
San Francisco, CA 94118

Tara Faenza
95 McCoppin Street, Apt. 210
San Francisco, CA 94103.

SPECIAL INTERROGATORY NO. 4:

State the last known address and telephone number of Tara Faenza.

RESPONSE TO SPECIAL INTERROGATORY NO. 4:

The general objections above are incorporated by reference as though fully set forth herein. Subject to and without waiving its general objections, Coudert specifically objects to this interrogatory as seeking information containing, referring to or constituting personal, confidential or proprietary information. Coudert further objects to this interrogatory as excessive under Code of Civil Procedure Section 94(a). Without waiving and subject to the foregoing objections, Coudert states that the last known address for Tara Faenza is: 95 McCoppin Street, Apt. E210, San Francisco, California, 94103.

SPECIAL INTERROGATORY NO. 5:

State whether Tara Faenza was terminated from her employment at Coudert.

RESPONSE TO SPECIAL INTERROGATORY NO. 5:

The general objections above are incorporated by reference as though fully set forth herein. Subject to and without waiving its general objections, Coudert specifically objects to this interrogatory as seeking information containing, referring to or constituting personal, confidential or proprietary information. Coudert further objects to this interrogatory as excessive under Code of Civil Procedure Section 94(a). Without waiving and subject to the foregoing objections, Coudert states that Tara Faenza was terminated from her employment at Coudert.

SPECIAL INTERROGATORY NO. 6:

If Tara Faenza was terminated from her employment at Coudert, please state each and

1 regarding the matter which lead to the issuance of United States Patent No. 6,607,528.

2 **SPECIAL INTERROGATORY NO. 39:**

3 State the total amount of legal fees that Coudert contends SenoRx still owes Coudert
4 regarding the matter which lead to the issuance of United States Patent No. 6,607,528.

5 **RESPONSE TO SPECIAL INTERROGATORY NO. 39:**

6 The general objections above are incorporated by reference as though fully set forth herein.
7 Subject to and without waiving its general objections, Coudert specifically objects to this
8 interrogatory as overbroad, unduly burdensome, and seeking information that is neither relevant
9 nor reasonably calculated to lead to admissible evidence. Coudert further objects to this
10 interrogatory as excessive under Code of Civil Procedure Section 94(a). Coudert further objects
11 that the interrogatory mis-states Coudert's contentions. Without waiving and subject to the
12 foregoing objections, Coudert states that it does not contend that SenoRx still owes money to
13 Coudert regarding the matter which lead to the issuance of United States Patent No. 6,607,528.

14
15
16 Dated: July 6, 2005

COUDERT BROTHERS LLP

17
18 By:

William M. Walker / WMR
William M. Walker
Defendant *Pro Se*

EXHIBIT 4

1 SEDGWICK, DETERT, MORAN & ARNOLD LLP
STEVEN D. WASSERMAN Bar No. 88291
2 MARK J. HANCOCK Bar No. 160662
One Market Plaza
3 Steuart Tower, 8th Floor
San Francisco, California 94105
4 Telephone: (415) 781-7900
Facsimile: (415) 781-2635

NOV 3 2005

5 Attorneys for Cross-Defendants
6 Edward J. Lynch and Duane Morris LLP

7 Case 3:07-cv-01075-SC Document 33-5 Filed 07/27/2007 Page 9 of 20

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN FRANCISCO

10
11 SENORX, INC.,

12 Plaintiff,

13 v.

14 COUDERT BROTHERS, LLP, and
DOES 1-500,

15 Defendants.

CASE NO. CGC 04-435849

**RESPONSES OF DUANE MORRIS LLP
TO COUDERT BROTHERS LLP'S
FORM INTERROGATORIES (SET ONE)**

16
17 COUDERT BROTHERS LLP,

18 Cross-Complainant,

19 v.

20 EDWARD J. LYNCH, an individual;
DUANE MORRIS LLP; and DOES 1 to
21 60, inclusive,

22 Cross-Defendants.

Complaint Filed: October 27, 2004

Trial Date: January 9, 2006

23 AND RELATED CROSS-ACTIONS.
24

25 ASKING PARTY: Defendant Pro Se COUDERT BROTHERS LLP

26 ANSWERING PARTY: Cross-Defendant DUANE MORRIS LLP

27 SET NUMBER: ONE

28 **SEDGWICK**
DETERT, MORAN & ARNOLD LLP

RESPONSE TO FORM INTERROGATORY NO. 4.2:

The responding party objects to this interrogatory on the ground that the term "incident" is vague and ambiguous in the context of this litigation. The responding party further objects to this interrogatory on the ground that it seeks information that is not relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

Without waiving these objections, the responding party responds as follows: No.

FORM INTERROGATORY NO. 12.1:

State the name, **ADDRESS**, and telephone number of each individual:

- (a) who witnessed the **INCIDENT** or the events occurring immediately before or after the **INCIDENT**;
- (b) who made any statement at the scene of the **INCIDENT**;
- (c) who heard any statements made about the **INCIDENT** by any individual at the scene;
- (d) who **YOU OR ANYONE ACTING ON YOUR BEHALF** claim has knowledge of the **INCIDENT** (except for expert witnesses covered by Code of Civil Procedure, § 2034).

RESPONSE TO FORM INTERROGATORY NO. 12.1:

The responding party objects to this interrogatory on the ground that the term "incident" is vague, ambiguous and unintelligible within the context of this litigation. Without waiving these objections, some or all of the following people may have knowledge of the matters alleged in the cross-complaint: Edward J. Lynch, Ruth Der, Tara Faenza, Donald Bartels, David Schnapf and Paul Lubock. Mr. Lynch and Ms. Der may be contacted through counsel, Sedgwick, Detert, Moran & Arnold LLP. Ms. Fenza's current address is unknown, Mr. Bartels is believed to be with the firm of Nixon Peabody in San Francisco, and Mr. Schnapf's current address is unknown.

FORM INTERROGATORY NO. 12.2:

Have **YOU OR ANYONE ACTING ON YOUR BEHALF** interviewed any individual concerning the **INCIDENT**? If so, for each individual state:

- (a) the name, **ADDRESS**, and telephone number of the individual interviewed;

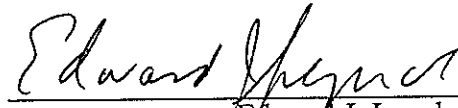
VERIFICATION

I, Edward J. Lynch, declare:

I am a cross-defendant in the above entitled action. I have read the foregoing responses of Edward J. Lynch to Coudert Brothers, LLP's Form Interrogatories (Set One) and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed at San Francisco, California on the 1st day of November, 2005.



Edward J. Lynch

SenoRx, Inc. v. Coudert Brothers, LLP, et al. and Related Cross-Motion
San Francisco County Superior Court No. CGC 04-435849

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Sedgwick, Detert, Moran & Arnold LLP, One Market Plaza, Steuart Tower, 8th Floor, San Francisco, California 94105. On November 1, 2005, I served the within document(s):

RESPONSES OF EDWARD J. LYNCH TO COUDERT BROTHERS LLP'S FORM INTERROGATORIES (SET ONE)

- ☐ FACSIMILE - by transmitting via facsimile the document(s) listed above to the fax number(s) set forth on the attached Telecommunications Cover Page(s) on this date before 5:00 p.m.
- ☒ MAIL - by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
- ☐ PERSONAL SERVICE - by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ OVERNIGHT COURIER - by placing the document(s) listed above in a sealed envelope with shipping prepaid, and depositing in a collection box for next day delivery to the person(s) at the address(es) set forth below via .

Michael J. Puize, Esq.
Geraldine Weiss, Esq.
Law Offices of Michael J. Puize
11755 Wilshire Boulevard, Suite 1170
Los Angeles, CA 90025
T: 310-312-1102
F: 310-473-0708

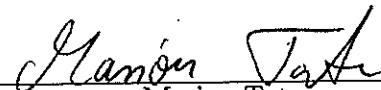
Attorneys For Plaintiff SenoRx

Glenn W. Trost, Esq.
William M. Walker, Esq.
Jon E. Hokanson, Esq.
Brian F. Drazich, Esq.
Coudert Brothers LLP
333 South Hope Street, 23rd Floor
Los Angeles, CA 90071
T: 213-229-2900
F: 213-229-2999

Attorneys For Defendant and Cross-Complainant
Coudert Brothers LLP

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 1, 2005, at San Francisco, California.


Marion Tate

SEDGWICK
DETERT, MORAN & ARNOLD LLP

EXHIBIT 5

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
Case 3:07-cv-01075-SC Document 33-5 Filed 07/27/2007 Page 14 of 20

SENORX, INC.,)	No. C-07-1075 SC
)	
Plaintiff,)	
)	
v.)	ORDER DENYING
)	PLAINTIFF'S MOTION TO
COUDERT BROTHERS, LLP, and DOES)	<u>REMAND</u>
1-500,)	
Defendants.)	

I. INTRODUCTION

Presently before the Court is a motion by Plaintiff SenoRx, Inc. ("Plaintiff" or "SenoRx") to remand the action to state court. See Mot. to Remand, Docket No. 13. Defendants Coudert Brothers, LLP et al. ("Defendants" or "Coudert") filed an opposition to Plaintiff's motion. See Opp'n, Docket No. 15.

For the reasons discussed herein, the Court DENIES Plaintiff's Motion to Remand.

II. BACKGROUND

In 2001, SenoRx retained the law firm Coudert Brothers LLP to represent it in the filing of several patent applications. See Weiss Decl., Ex. 1. In 2004, Plaintiff sued Defendants in California Superior Court for professional negligence stemming from Defendants' legal advice and actions on behalf of Plaintiff.

1 See Not. of Removal, ¶ 1. From late 2004 through late 2006, the
 2 state court litigation continued as Plaintiff filed several
 3 amendments to substitute named limited liability partners of
 4 Coudert Brothers LLP for the DOE defendants and Defendants filed
 5 demurrers. See id. at ¶¶ 2-3.

6 On September 22, 2006, Plaintiff filed Chapter 11 Bankruptcy
 7 Petition in the United States Bankruptcy Court for the Southern
 8 District of New York: In re Coudert Brothers LLP, Case No. 06-
 9 12226 (the "Bankruptcy Case"). See id. at ¶ 4. On November 8,
 10 2006, Plaintiff filed its Fourth Amended Complaint and the state
 11 court subsequently overruled Defendants' demurrer to that
 12 complaint. See id. at 5. On January 31, 2007, Plaintiff filed a
 13 proof of claim in the Bankruptcy Case seeking the same recovery as
 14 the claims set forth in its Fourth Amended Complaint. See id. at
 15 6. Defendants removed the action to this Court on February 21,
 16 2007. See id.

18 III. DISCUSSION

19 A. Jurisdiction

20 This matter was removed to federal court pursuant to 28
 21 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy
 22 Procedure. Under 28 U.S.C. § 1334(b), which governs federal
 23 jurisdiction over bankruptcy matters, "Congress intended to grant
 24 comprehensive jurisdiction to the bankruptcy courts so that they
 25 might deal efficiently and expeditiously with all matters
 26 connected with the bankruptcy estate." Celotex Corp. v. Edwards,
 27 514 U.S. 300, 308 (1995). Furthermore, "the 'related to' language

1 of § 1334(b) must be read to give district courts (and bankruptcy
2 courts under § 157(a)) jurisdiction over more than simple
3 proceedings involving the property of the debtor or the estate."
4 Id.

5 On January 31, 2007, Plaintiff filed a proof of claim in the
6 Bankruptcy Case seeking the same recovery as in claims in this
7 case. See Not. of Removal, ¶ 6. As a result, Plaintiff's claims
8 against Coudert Brothers LLP are core bankruptcy matters which are
9 subject to the jurisdiction of the bankruptcy court. See In re
10 G.I. Industries, 204 F.3d 1276, 1279-80 (9th Cir. 2000) ("The
11 filing of a proof of claim is the prototypical situation involving
12 the 'allowance or disallowance of claims against the estate,' a
13 core proceeding under 28 U.S.C. § 157(b)(2).").

14 In this action, Plaintiff has also filed suit against
15 numerous individuals who were partners of the Coudert law firm
16 (the "Individual Partner Defendants"). The Individual Partner
17 Defendants are not debtors in the Bankruptcy Case. See Pl.'s
18 Reply, 2. In its Reply Brief, Plaintiff concedes that the Court
19 cannot remand the claims against Coudert Brothers LLP, but
20 requests that the Court remand the claims against the Individual
21 Partner Defendants. See id., 1-2.

22 28 U.S.C. § 1452 also allows "removal of claims related to
23 bankruptcy cases." Though not core bankruptcy proceedings, the
24 claims against the Individual Partner Defendants are related to
25 the Bankruptcy Case. The Ninth Circuit has stated:

26 The usual articulation of the test for determining whether a
27 civil proceeding is related to bankruptcy is whether the
outcome of the proceeding could conceivably have any effect

1 on the estate being administered in bankruptcy. [citations
2 omitted]. Thus, the proceeding need not necessarily be
3 against the debtor or against the debtor's property. An
4 action is related to bankruptcy if the outcome could alter
5 the debtor's rights, liabilities, options, or freedom of
6 action (either positively or negatively) and which in any way
7 impacts upon the handling and administration of the bankrupt
8 estate.

9 In re Feitz, 852 F.2d 455, 457 (9th Cir. 1988) (emphasis in

10 original). In this case, Plaintiff's success or failure to

11 recover from the Individual Partner Defendants will either
12 positively or negatively affect the bankruptcy estate. On the one
13 hand, if the Individual Partner Defendants are liable for
14 malpractice and guarantors for damages against Coudert Brothers
15 LLP, claims against the estate will be reduced. On the other
16 hand, a holding of liability will likely give rise to indemnity
17 claims by the partners against the bankruptcy estate, negatively
18 affecting the estate. See In re Sizzler Rests. Int'l, Inc., 262
19 B.R. 811, 818-819 (Bankr. C.D. Cal. 2001) (discussing how
20 indemnity claims give rise to "related to" bankruptcy
21 jurisdiction).

22 **B. Abstention**

23 Plaintiff asserts that the Court should abstain from hearing
24 this case under 28 U.S.C. § 1334(c). See Mot. to Remand, 14.
25 Plaintiff's argument fails. In the Ninth Circuit, abstention is
26 unavailable if there is no pending state court proceeding. See In
27 re Lazar, 237 F.3d 967, 981-82 (9th Cir. 2001) ("Accordingly,
28 because there is no pending state proceeding, §§ 1334(c)(1) and
29 1334(c)(2) are simply inapplicable to this case."). As a result
30 of Defendant's removal, no pending state proceeding remains and
31 abstention does not apply.

1 C. Equitable Remand

2 Plaintiff also requests equitable remand of the action
3 pursuant to 28 U.S.C. § 1452(b). See Mot. to Remand, 10. In
4 analyzing whether to remand, the Court should consider a variety
5 of equitable factors, including:

6 (1) the effect of the action on the administration of the
7 bankruptcy estate; (2) the extent to which the issues of
8 state law predominate; (3) the difficulty of applicable state
9 law; (4) comity; (5) the relatedness or remoteness of the
10 action to the bankruptcy case; (6) the existence of a right
11 to jury trial; and (7) prejudice to the party involuntarily
12 removed from state court.

13 Williams v. Shell Oil Co., 169 B.R. 684, 692-693 (S.D. Cal. 1994).

14 A thorough evaluation of the relevant factors weighs in favor of
15 denying equitable remand.

16 1. Effect of the action on the bankruptcy estate

17 As previously discussed, the resolution of this case will
18 have a significant effect on the bankruptcy estate. The large
19 amount of money at stake in this litigation has the potential to
20 greatly reduce the bankruptcy estate and constitutes a significant
21 potential liability for the debtor. The estimation of such
22 liabilities is "a mandatory obligation of the bankruptcy court"
23 A.H. Robbins Co. v. Piccinin, 788 F.2d 994, 1012 (4th Cir. 1986).

24 2. Relatedness of the action to the Bankruptcy Case

25 As noted by Defendants, this action is related to the
26 Bankruptcy Case. First, Coudert Brothers LLP is the debtor in the
27 Bankruptcy Case and Plaintiff filed a proof of claim in that case

1 concerning the same transactions as this case. Second, the
2 Individual Partner Defendants were allegedly members of the firm
3 at the time it did legal work for Plaintiff and have been named as
4 guarantors of the firm's liabilities. As such, any action against
5 the Individual Partner Defendants will necessarily inquire into
6 the liability of the debtor and whether its insurance is
7 sufficient to cover Plaintiff's claims. Plaintiff's claims
8 against the non-debtor partners are thus inextricably linked to
9 its claims against the debtor.

10 3. Issues of state law

11 Plaintiff's case involves relatively straightforward state
12 law claims of legal malpractice. In support of its motion to
13 remand, Plaintiff argues that the trial court will need to
14 interpret California Corporations Code § 16956, which regulates
15 the amount of insurance a limited liability partnership must hold.
16 See Mot. to Remand, 11. Despite the presence of state law claims
17 and the need to interpret a state statute, bankruptcy courts are
18 capable of resolving issues of state law, as the court will be
19 able to do in this case. See In the Matter of Chicago, Milwaukee,
20 St. Paul & Pacific R.R. Co., 6 F.3d 1184 (7th Cir. 1993) (stating
21 that bankruptcy courts are qualified to resolve issues of state
22 law).

23 4. Comity

24 Comity does not favor remand in this case. Though the case
25 was before the state court for some time, the court had not made
26 significant progress. Indeed, it was not until January 2007 that
27 the demurrer to Plaintiff's Fourth Amended Complaint was
28

1 overruled. See Not. of Removal, ¶ 5; see e.g., In re Talon
2 Holdings, Inc., 221 B.R. 214, 221 (Bankr. N.D. Ill. 1998) ("[A]t
3 the time this action was removed, the proceedings in the State
4 Court were not sufficiently advanced such that concerns for comity
5 and waste of judicial resources are implicated.")

6 ~~5. Other factors~~ Case 3:07-cv-01075-SC Document 33-5 Filed 07/27/2007 Page 20 of 20

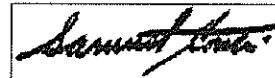
7 Consideration of the remaining factors weighs against remand.
8

9 IV. CONCLUSION

10 For the reasons described herein, Plaintiff's Motion to
11 Remand is DENIED.
12

13 IT IS SO ORDERED.
14

15 Dated: May 24, 2007



16
17 UNITED STATES DISTRICT JUDGE
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